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A.J. Mechanical, Inc. and Carpenters and Millwrights, Local Union #2471, affiliated with United Brotherhood of Carpenters and Joiners of America, AFL-CIO. Cases 15-CA-15350, 15-CA-15388, 15-CA-15598, and 15-CA-15618

April 14, 2000

# **DECISION AND ORDER**

# BY CHAIRMAN TRUESDALE AND MEMBERS FOX AND LIEBMAN

Upon charges and amended charges filed by the Union on May 24, June 11, June 16, July 26, August 30, October 28, and November 12, 1999, the General Counsel of the National Labor Relations Board issued a complaint on July 29, 1999, and a first amended order consolidating cases, consolidated complaint on December 28, 1999, against A.J. Mechanical, Inc., the Respondent, alleging that it has violated Section 8(a)(1), (3), and (5) of the National Labor Relations Act. Although properly served copies of the charge and complaint, the Respondent failed to file an answer.

On March 13, 2000, the General Counsel filed a Motion for Summary Judgment with the Board. On March 16, 2000, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

# Ruling on Motion for Summary Judgment

Sections 102.20 and 102.21 of the Board's Rules and Regulations provide that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively notes that unless an answer is filed within 14 days of service, all the allegations in the complaint will be considered admitted. Further, the undisputed allegations in the Motion for Summary Judgment disclose that the Region, by letter dated February 9, 2000, notified the Respondent that unless an answer were received by February 22, 2000, a Motion for Summary Judgment would be filed.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

## FINDINGS OF FACT

## I. JURISDICTION

At all material times, the Respondent, a Florida corporation, with an office and place of business in Pensacola, Florida, has been a mechanical contractor engaged in the business of refurbishing and upgrading gas turbines. At all material times the Respondent, in conducting its business, purchased and received at its Pensacola, Florida facility goods valued in excess of \$50,000 directly form points outside the State of Florida. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

#### II. ALLEGED UNFAIR LABOR PRACTICES

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of the Respondent within the meaning of Section 2(11) of the Act and have been agents of the Respondent within the meaning of Section 2(13) of the Act:

Arnold Greene Owner Jim Sanders Owner

Bill Bailey Night Shift Superintendent

Doug Odom Job Foreman Hiram Walker Millwright Foreman Michael Walker Millwright Foreman

Dennis Graham Foreman
David Ferraro Foreman
Joe Long Superintendent
Lynn Peacock Foreman

At all material times, a secretary of the Respondent and a male individual who worked in the Respondent's office, whose names are unknown to the General Counsel, have been agents of the Respondent within the meaning of Section 2(13) of the Act.

The Respondent, by the individuals named below, about the dates opposite their names and in and about its facility, informed its employees that it would be futile for them to select the Union as their bargaining representative:

(a) Jim Sanders First week of December

1998

Last week of December

1998

(b) Arnold Greene December 18 and 23,

1998; January 3 and 25, 1999; February 1, 1999

The Respondent, by the individuals named below, about the dates opposite their names and in and about its facility, interrogated its employees about their member-

 $<sup>^{\</sup>rm 1}$  The General Counsel's motion is labeled as a "Motion for Default Judgment."

ship, activities, and sympathies and the union membership, activities and sympathies of other employees:

(a) Jim Sanders First week of Decem-

ber 1998

(b) Jim Greene December 23, 1998;

early February 1999

March 2 and 4, 1999

(c) Hiram Walker February 1, 1999

The Respondent, by the individuals named below, about the dates opposite their names and in and about its facility, threatened its employees with plant closure and loss of jobs because of their activities on behalf of the Union:

(a) Doug Odom	December 1998
(b) Jim Sanders	mid-December 1998; late
	December 1998
(c) Arnold Greene	mid-December 1998; De-
	cember 23, 1998; January
	3, 1999
(d) Hiram Walker	end of January 1999

The Respondent, by the individuals named below, about the dates opposite their names and in and about its facility, threatened its employees with discharge because they engaged in activities on behalf of the Union

(e) Michael Walker

(a) Jim Sanders	December 17, 1998
(b) Doug Odom	January 25, 1999
(c) Arnold Greene	April 1999; May 6, 1999

The Respondent, by the individuals named below, about the dates opposite their names and in and about its facility, created the impression that it had its employees' Union activities under surveillance:

(a) Jim Sanders	December 17, 1998
(b) Hiram Walker	January 31, 1999
	February 1, 1999
(c) Michael Walker	March 4, 1999

The Respondent, by the individuals named below, about the dates opposite their names and in and about its facility, informed its employees that it was not hiring anymore employees who supported the Union:

(a) Arnold Greene	December 20, 1998;
	December 23, 1998;
	January 4, 1999;
	January 15, 1999
(b) Doug Odom	January 28, 1999
	February 18, 1999
(c) Unnamed secretary	January 1999
	March 1999
(d) Unnamed male	April 1999
	January 4, 1999
	January 7, 1999
	February/March 199

9

March 3, 1999 May 1999

On about December 17, 1998, the Respondent, by Jim Sanders, in and about its facility, impliedly promised benefits to its employees if they ceased their activities on behalf of the Union.

On about December 18, the Respondent, by Jim Sanders, in and about its facility, prohibited employees from wearing union stickers on their hard hats.

On about December 20, and 23, 1998, and January 28, 1999, the Respondent, by Arnold Greene, in and about its facility, threatened its employees that he would shut down the job and reopen using employees who did not support the Union.

On about December 23, 1998, and mid-January 1999, the Respondent, by Arnold Greene, in and about its facility, threatened that it would move its business if the employees did not cease their activities on behalf of the Union.

In about late December 1998, the Respondent, by Doug Odom, in and about its facility, prohibited employees from speaking about the Union or soliciting on behalf of the Union.

On about February 1, 1999, the Respondent, by Hiram Walker, in and about its facility, solicited employees to speak out against the Union.

On or about January 25, 1999, the Respondent, by Doug Odom, in and about its facility, threatened employees with unspecified reprisals because they engaged in activities on behalf of the Union.

On about February 26, 1999, the Respondent, by David Ferraro, in and about its facility, threatened employees with reassignment because of their activities on behalf of the Union.

On about February 28, 1999, the Respondent, by Bill Bailey, in and about its facility, threatened employees with a loss of raises because of their activities on behalf of the Union.

In about April and on about May 6, 1999, the Respondent, by Arnold Greene, in and about its facility, threatened employees with a loss of benefits if they selected the Union as their bargaining representative.

On about January 16, 1999, the Respondent, by Arnold Greene, in and about its facility, discarded numerous application because said applicants indicated support for the Union.

On about January 31, 1999, the Respondent assigned its employee Frank Tournabene to more onerous working conditions.

On about February 17, 1999, the Respondent reassigned its employees Bill Krajewski and Eddy Jordan.

On about February 29, 1999, the Respondent denied its employee Frank Tournabene a pay raise.

On or about the dates set opposite their respective names, the Respondent laid off and refused to recall or rehire the following named employees:

John Schifko	March 1, 1999
Bill Krajewski	March 5, 1999
Eddy Jordan	March 5, 1999
Frankie Maddox	March 10, 1999
Frank Tournabene	April 16, 1999
Creavin Maddox	May 1999
John Schifko	March 1, 1999
Bill Krajewski	March 5, 1999
Eddy Jordan	March 5, 1999
Frankie Maddox	March 10, 1999
Frank Tournabene	April 16, 1999
Creavin Maddox	May 1999

On or about the dates set forth opposite their respective names the Respondent terminated the following named employees:

Jackie Glenn Johnson	January 26, 1999
Jeffery Noble	mid-February 1999

On or about the dates set forth opposite their respective names and thereafter, the Respondent refused to consider for hire or to hire the following named employees:

Barry Owens	October 1998
Tim Jones	January 1, 1999
Gary West	January 1999
David North	January 1999
Ralph Brown	January 1999
Matthew Weaver	January 1999
James Adams	January 4, 1999
Jason Spencer	January 4, 1999
Ricky Houseman	January 4, 1999
John Larimore	January 1999
Walter Buck, Jr.	January 15, 1999
William Buck	January 27, 1999
B.J. Vincent	February 1, 1999
Ronald Morrell	February 15, 1999
Jimmy Davis	February 1999
James Roberts	March 1, 1999
Darryl Henderson	March 9, 1999
William Lake	March 1999
Joseph Jordan	March 1999
Jeremy McCall	March 1999
Scottie Steele	March 19, 1999
John Townson	March 1999
Earnest Nelson	April 1999

The Respondent engaged in the conduct described above because the named employees formed and assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

The following employees of the Respondent (the unit) constitute a unit appropriate for the purposes of collec-

tive bargaining within the meaning of Section 9(a) of the Act:

All Full-Time and Regular Part-Time Employees, including millwrights, millwright helpers, carpenters, carpenter helpers and laborers employed by the employer at its Pensacola, Florida Docks facility, including such employees who work in the field, excluding all office clerical employees, sandblasters, painters, and guards and supervisors as defined in the Act.

On July 6, 1999, the Union was certified as the exclusive collective-bargaining representative of the unit.

At all times since July 6, 1999, the Respondent has failed and refused to recognize and bargain with the Union as the exclusive collective-bargaining representative of the unit and, since that time, based on Section 9(a) of the Act, has been the exclusive collective-bargaining representative of the unit.

About September 11, 1999, the Respondent ceased business operations. This subject relates to wages, hours and other terms and conditions of employment of the unit and is a mandatory subject for the purposes of collective bargaining. The Respondent engaged in this conduct without prior notice to the Union and without affording the Union an opportunity to bargain with the Respondent with respect to the effects of this conduct.

# CONCLUSIONS OF LAW

By the acts and conduct described above, the Respondent has interfered with, restrained and coerced employees in the exercise of the rights guaranteed them in Section 7 of the Act in violation of Section 8(a)(1) of the Act. In addition, by assigning employee Frank Tournabene more onerous working conditions, reassigning employees Bill Krajewski and Eddy Jordan, denying employee Frank Tournabene a pay raise, laying off and refusing to recall or rehire John Schifko, Bill Krajewski, Eddy Jordan, Frankie Maddox, Frank Tournabene, Creavin Maddox, terminating Jackie Glenn Johnson and Jeffery Noble, and by refusing to hire or consider for hire the following employees: Barry Owens, Tim Jones, Gary West, David North, Ralph Brown, Matthew Weaver, James Adams, Jason Spencer, Ricky Houseman, John Larimore, Walter Buck, Jr., William Buck, B.J. Vincent, Ronald Morrell, Jimmy Davis, James Roberts, Darryl Henderson, William Lake, Joseph Jordan, Jeremy McCall, Scottie Steele, John Townson and Earnest Nelson, the Respondent has discriminated in regard to hire, tenure or terms and conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(3) and (1) of the

Further, by failing and refusing since June 24, 1999, to recognize and bargain with the Union as the exclusive collective-bargaining representative of the unit employees and by ceasing business operations without giving

the Union prior notice and without offering the Union an opportunity to bargain with respect to the effects of this conduct, the Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees within the meaning of Section 8(d) of the Act and has thereby engaged in unfair labor practices in violation of Section 8(a)(5) and (1) of the Act. The Respondent has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1), (3), and (5) and Section 2(6) and (7) of the Act.

## REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent has violated Section 8(a)(3) by terminating Jackie Glenn Johnson and Jeffery Noble, and by laying off and refusing to recall or rehire John Schifko, Bill Krajewski, Eddy Jordan, Frankie Maddox, Frank Tournabene and Creavin Maddox, we shall order the Respondent to offer them full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed, and to make them whole for any loss of earning and other benefits suffered as a result of the discrimination practiced against them.<sup>2</sup> Backpay shall be computed in the manner set forth in F. W. Woolworth Co., 90 NLRB 289 (1950), with interest as prescribed in New Horizons for the Retarded, 283 NLRB 1173 (1987). The Respondent shall also be required to expunge from its files any and all references to the unlawful discharges, lay offs and refusing to recall or rehire, and to notify the discriminatees in writing that this has been done.

In addition, having found that the Respondent violated Section 8(a)(3) and (1) by failing and refusing to hire and consider for hire Barry Owens, Tim Jones, Gary West, David North, Ralph Brown, Matthew Weaver, James Adams, Jason Spencer, Ricky Houseman, John Larimore, Walter Buck, Jr., William Buck, B.J. Vincent, Ronald Morrell, Jimmy Davis, James Roberts, Darryl Henderson, William Lake, Joseph Jordan, Jeremy McCall, Scottie Steele, John Townson and Ernest Nelson, we shall order the Respondent to offer them immediate employment in the same positions that they would have had, but for the unlawful discrimination against them, and to make them whole for any loss of earnings and other

benefits suffered as a result of the discrimination against them. Backpay shall be computed in accordance with *F. W. Woolworth Co.*, 90 NLRB 289 (1950), with interest as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987). The Respondent shall also be equired to remove from its files any and all references to the unlawful failure and refusal to consider for hire or to hire these individuals, and to notify them in writing that this has been done.

Further, having found that the Respondent unlawfully assigned Frank Tournabene more onerous working conditions, reassigned employees Bill Krajewski and Eddy Jordan, and denied Frank Tournabene apay raise, we shall order the Respondent to return Frank Tournabene to the job duties and conditions he had prior to January 31, 1999, to return Bill Krajewski and Eddy Jordan to the job duties and conditions they had prior to February 17, 1999, and to make Frank Tournabene whole for any loss of earnings and other benefits suffered as a result of the discrimination against him. Backpay shall be computed in accordance with F. W. Woolworth Co., 90 NLRB 289 (1950), with interest as prescribed in New Horizons for the Retarded, 283 NLRB 1173 (1987). The Respondent shall also be required to expunge from its files any and all references to its unlawful assignment of Frank Tournabene to more onerous working conditions, the unlawful reassignment of Bill Krajewski and Eddy Jordan, and the unlawful denial of a pay raise to Frank Tournabene, and to notify the discriminatees in writing that this has been

In addition, having found that the Respondent violated Section 8(a)(5) and (1) by failing and refusing to recognize and bargain with the Union as the exclusive collective-bargaining representative of its unit employees and by failing and refusing to bargain in good faith with the Union about the effects of its decision to close its facility, we shall order the Respondent to bargain with the Union on request.<sup>3</sup> Through the Respondent's unlawful conduct, the terminated employees have been denied an opportunity to bargain through their collective-bargaining representative. Meaningful bargaining cannot be assured until some measure of economic strength is estored to the Union. A bargaining order alone, therefore, cannot serve as an adequate remedy for the unfair labor practices committed.

Accordingly, we deem it necessary, in order to effectuate the purposes of the Act, to require the Respondent to bargain with the Union concerning the effects of clos-

<sup>&</sup>lt;sup>2</sup> We are mindful that the closing of the Respondent's facility may limit the full application of the remedy prescribed for the discriminatees. However, we note that the General Counsel specifically requested a reinstatement remedy for the discriminatees, and this request is unopposed by virtue of the Respondent's failure to respond to the notice to show cause. We shall, therefore, leave to compliance the determination of the effect of the closing on that remedy. See *Mutual Mining, Inc.*, 322 NLRB 432, 434 fn. 3 (1996).

<sup>&</sup>lt;sup>3</sup> To ensure that the employees are accorded the services of their selected bargaining agent for the period provided by law, we shall construe the initial period of certification as beginning the date the Respondent begins to bargain in good faith with the Union. *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962); *Lamar Hotel*, 140 NLRB 226, 229 (1962), enfd. 328 F.2d 600 (5th Cir. 1964), cert. denied 379 U.S. 817 (1964); *Burnett Construction Co.*, 149 NLRB 1419, 1421 (1964), enfd. 350 F.2d 57 (10th Cir. 1965).

ing its facility on its employees, and shall accompany our order with a limited backpay requirement designed both to make whole the employees for losses suffered as a result of the violations and to re-create in some practicable manner a situation in which the parties' bargaining position is not entirely devoid of economic consequences for the Respondent. We shall do so by ordering the Respondent to pay backpay to the terminated employees in a manner similar to that required in *Transmarine Navigation Corp.*, 170 NLRB 389 (1968).

Thus, the Respondent shall pay its terminated employees backpay at the rate of their normal wages when last in the Respondent's employ from 5 days after the date of this Decision and Order until occurrence of the earliest of the following conditions: (1) the date the Respondent bargains to agreement with the Union on those subjects pertaining to the effects of the closing of its facility on its employees; (2) a bona fide impasse in bargaining; (3) the Union's failure to request bargaining within 5 business days after receipt of this Decision and Order, or to commence negotiations within 5 business days after receipt of the Respondent's notice of its desire to bargain with the Union;<sup>4</sup> (4) the Union's subsequent failure to bargain in good faith, but in no event shall the sum paid to these employees exceed the amount they would have earned as wages from the date on which the Respondent terminated its operations, to the time they secured equivalent employment elsewhere, or the date on which the Respondent shall have offered to bargain in good faith, whichever occurs sooner; provided, however, that in no event shall this sum be less than the employees would have earned for a 2-week period at the rate of their normal wages when last in the Respondent's employ. Backpay shall be based on earnings which the terminated employees would normally have received during the applicable period, less any net interim earnings, and shall be computed in accordance with F. W. Woolworth Co., 90 NLRB 289 (1950), with interest as prescribed in New Horizons for the Retarded, 283 NLRB 1173 (1987).

In view of the fact that the Respondent's facility is currently closed, we shall order the Respondent to mail a copy of the attached notice to the Union and to the last known addresses of its former employees in order to inform them of the outcome of this proceeding.

## ORDER

The National Labor Relations Board orders that the Respondent, A.J. Mechanical, Inc., Pensacola, Florida, its officers, agents, successors, and assigns, shall

- 1. Cease and desist from
- (a) Interrogating its employees about their union membership, activities and sympathies and the union membership, activities and sympathies of other employees.
  - <sup>4</sup> Melody Toyota, 325 NLRB 846 (1998).

- (b) Threatening its employees with plant closure or loss of jobs because of the employees' activities on behalf of the Union.
- (c) Threatening its employees with discharge because they engaged in activities on behalf of the Union.
- (d) Creating the impression that the Respondent has its employees' union activities under surveillance.
- (e) Informing employees that the Respondent is not hiring any employees who support a union.
- (f) Promising benefits to employees if the employees stop their activities on behalf of the union.
- (g) Prohibiting employees from wearing union stickers on their hard hats.
- (h) Threatening employees that the Respondent will shut down the job and reopen using employees who did not support the Union.
- (i) Threatening to move its business if the employees did not stop their activities on behalf of the Union.
- (j) Soliciting employees to speak out against the Un-
- (k) Prohibiting employees from speaking about the Union or from soliciting on behalf of the Union.
- (l) Threatening employees with reprisals because they engage in activities on behalf of the Union.
- (m) Threatening employees with reassignment because of their activities on behalf of the Union.
- (n) Threatening employees with loss of raises because of their activities on behalf of the Union.
- (o) Threatening employees with loss of benefits because of their activities on behalf of the Union.
- (p) Discarding employment applications because the applicants indicated support for the Union.
- (q) Informing employees that it would be futile to select the Union as their bargaining representative.
- (r) Assigning employees more onerous working conditions because of their support for the Union.
- (s) Reassigning employees because of their support for the Union.
- (t) Denying employees a pay raise because of their support for the Union.
- (u) Laying off employees and refusing to recall them because of their support for the Union.
- (v) Discharging employees because of their support for the Union.
- (w) Refusing to hire or consider for hire individuals because of their support for the Union.
- (x) Failing and refusing to recognize and bargain with the Union as the exclusive collective barraging representative of the unit employees, and failing and refusing to bargain with the Union about the effects of the closure of its Pensacola, Florida facility.
- (y) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.
- 2. Take the following affirmative action necessary to effectuate the policies of the Act.

- (a) Within 14 days from the date of this Order, offer Jackie Glenn Johnson, Jeffery Noble, John Schifko, Bill Krajewski, Eddy Jordan, Frankie Maddox, Frank Toumabene, and Creavin Maddox full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.
- (b) Make Jackie Glenn Johnson, Jeffery Noble, John Schifko, Bill Krajewski, Eddy Jordan, Frankie Maddox, Frank Tournabene, and Creavin Maddox whole for any loss of earnings and other benefits suffered as a result of the discrimination against them, with interest, in the manner set forth in the remedy section of this decision.
- (c) Within 14 days from the date of this Order, remove from its files any reference to the unlawful discharges and lay offs, and within 3 days thereafter notify the employees in writing that this has been done and that the discharges and lay offs will not be used against them in any way.
- (d) Within 14 days from the date of this Order, offer Barry Owens, Tim Jones, Gary West, David North, Ralph Brown, Matthew Weaver, James Adams, Jason Spencer, Ricky Houseman, John Larimore, Walter Buck, Jr., William Buck, B.J. Vincent, Ronald Morrell, Jimmy Davis, James Roberts, Darryl Henderson, William Lake, Joseph Jordan, Jeremy McCall, Scottie Steele, John Townson and Ernest Nelson, immediate employment in the same positions they would have had, but for the unlawful discrimination against them, or, if those jobs no longer exist, to substantially equivalent positions.
- (e) Make Barry Owens, Tim Jones, Gary West, David North, Ralph Brown, Matthew Weaver, James Adams, Jason Spencer, Ricky Houseman, John Larimore, Walter Buck, Jr., William Buck, B.J. Vincent, Ronald Morrell, Jimmy Davis, James Roberts, Darryl Henderson, William Lake, Joseph Jordan, Jeremy McCall, Scottie Steele, John Townson and Ernest Nelson whole for any loss of earnings and other benefits suffered as a result of the discrimination against them, with interest, in the manner set forth in the remedy section of this decision.
- (f) Within 14 days from the date of this Order remove from its files any and all references to the unlawful failure and refusal to hire and to consider for hire these individuals, and within 3 days thereafter notify the individuals in writing that this has been done and that the unlawful failure and refusal to hire and to consider for hire will not be used against them in any way.
- (g) Within 14 days from the date of this Order, return Frank Tournabene to the job conditions he had prior to January 31, 1999, grant him the pay raise he was unlawfully denied and return Bill Krajewski and Eddy Jordan to the job duties and conditions they had prior to February 17, 1999.
- (h) Within 14 days from the date of this Order, make Frank Tournabene whole for any loss of earnings and

- other benefits he may have suffered as a result of the discrimination against him, with interest, as set forth in the remedy section of this decision.
- (i) Within 14 days from the date of this Order, remove from its files any and all references to the unlawful æsignment to more onerous working conditions, the unlawful reassignment and the unlawful denial of a pay raise, and within 3 days thereafter, notify the employees in writing that this has been done and the unlawful assignment to more onerous working conditions, the unlawful reassignment and the unlawful denial of a pay raise will not be used against them in any way.
- (j) Recognize and, on request, bargain with the Union as the exclusive collective-bargaining representative of the employees in the following appropriate unit over terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:
  - All Full-Time and Regular Part-Time Employees, including millwrights, millwright helpers, carpenters, carpenter helpers and laborers employed by the employer at its Pensacola, Florida Docks facility, including such employees who work in the field, excluding all office clerical employees, sandblasters, painters, and guards and supervisors as defined in the Act.
- (k) On request, bargain with the Union over the effects on unit employees of the closure of the facility, reduce to writing any agreement reached as a result of such bargaining and pay limited backpay to the unit employees, in the manner set forth in the remedy section of this decision.
- (1) Preserve and, within 14 days of a request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.
- (m) Within 14 days after service by the Region, duplicate and mail, at its own expense and after being signed by the Respondent's authorized representative, signed and dated copies of the attached notice marked "Appendix" to the Union and to the last known address of all current and former unit employees.

<sup>&</sup>lt;sup>5</sup> In this Order is enforced by a judgment of a United States court of appeals, the words "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

(n) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. April 14, 2000

John C. Truesdale,	Chairman
Sarah M. Fox,	Member
Wilma B. Liebman.,	Member
AL) NATIONAL LABO	R RELATIONS BOARD

# APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT interrogate our employees about their union membership, activities and sympathies and the union membership, activities and sympathies of other employees.

WE WILL NOT threaten our employees with plant closure or loss of jobs because of our employees' activities on behalf of the Union.

WE WILL NOT threaten our employees with discharge because they engaged in activities on behalf of the Union.

WE WILL NOT create the impression that we have our employees' union activities under surveillance.

WE WILL NOT inform our employees that we are not hiring any employees who support a union.

WE WILL NOT promise benefits to our employees if our employees stop their activities on behalf of the Union.

WE WILL NOT prohibit our employees from wearing union stickers on their hard hats.

WE WILL NOT threaten employees that we will shut down the job and reopen using employees who did not support the Union.

WE WILL NOT threaten to move our business if the employees do not stop their activities on behalf of the Union.

WE WILL NOT solicit our employees to speak out against the Union.

WE WILL NOT prohibit our employees from speaking about the Union or from soliciting on behalf of the Union.

WE WILL NOT threaten employees with reprisals because they engage in activities on behalf of the Union.

WE WILL NOT threaten employees with reassignment because of their activities on behalf of the Union.

WE WILL NOT threaten employees with loss of raises because of their activities on behalf of the Union.

WE WILL NOT threaten employees with loss of benefits because of their activities on behalf of the Union.

WE WILL NOT discard employment applications because the applicants indicated support for the Union.

WE WILL NOT inform employees that it would be futile to select the Union as their bargaining representative.

WE WILL NOT assign employees more onerous working conditions because of their support for the Union.

WE WILL NOT reassign employees because of their support for the Union.

WE WILL NOT deny employees a pay raise because of their support for the Union.

WE WILL NOT lay off employees and refuse to recall them because of their support for the Union.

WE WILL NOT discharge employees because of their support for the Union.

WE WILL NOT refuse to hire or consider for hire individuals because of their support for the Union.

WE WILL NOT fail and refuse to recognize and bargain with the Union as the exclusive collective bargaining representative of the unit employees, and WE WILL NOT fail and refuse to bargain with the Union about the effects of the closure of our Pensacola, Florida facility.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, within 14 days from the date of this Order, offer Jackie Glenn Johnson, Jeffery Noble, John Schifko, Bill Krajewski, Eddy Jordan, Frankie Maddox, Frank Tournabene, and Creavin Maddox full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.

WE WILL make Jackie Glenn Johnson, Jeffery Noble, John Schifko, Bill Krajewski, Eddy Jordan, Frankie Maddox, Frank Tournabene, and Creavin Maddox whole for any loss of earnings and other benefits suffered as a result of the discrimination against them, with interest, in the manner set forth in the remedy section of this decision.

WE WILL, within 14 days from the date of this Order, remove from its files any reference to the unlawful discharges and lay offs, and within 3 days thereafter notify the employees in writing that this has been done and that the discharges and layoffs will not be used against them in any way.

WE WILL, within 14 days from the date of this Order, offer Barry Owens, Tim Jones, Gary West, David North, Ralph Brown, Matthew Weaver, James Adams, Jason

Spencer, Ricky Houseman, John Larimore, Walter Buck, Jr., William Buck, B.J. Vincent, Ronald Morrell, Jimmy Davis, James Roberts, Darryl Henderson, William Lake, Joseph Jordan, Jeremy McCall, Scottie Steele, John Townson and Ernest Nelson, immediate employment in the same positions they would have had, but for the unlawful discrimination against them, or, if those jobs no longer exist, to substantially equivalent positions.

WE WILL make Barry Owens, Tim Jones, Gary West, David North, Ralph Brown, Matthew Weaver, James Adams, Jason Spencer, Ricky Houseman, John Larimore, Walter Buck, Jr., William Buck, B.J. Vincent, Ronald Morrell, Jimmy Davis, James Roberts, Darryl Henderson, William Lake, Joseph Jordan, Jeremy McCall, Scottie Steele, John Townson and Ernest Nelson whole for any loss of earnings and other benefits suffered as a result of the discrimination against them, with interest.

WE WILL, within 14 days from the date of this Order remove from our files any and all references to the unlawful failure and refusal to hire and to consider for hire these individuals, and within 3 days thereafter notify the individuals in writing that this has been done and that the unlawful failure and refusal to hire and to consider for hire will not be used against them in any way.

WE WILL, within 14 days from the date of this Order, return Frank Tournabene to the job conditions he had prior to January 31, 1999, grant him the pay raise he was unlawfully denied and return Bill Krajewski and Eddy Jordan to the job duties and conditions they had prior to February 17, 1999.

WE WILL, within 14 days from the date of this Order, make Frank Tournabene whole for any loss of earnings

and other benefits he may have suffered as a result of the discrimination against him, with interest.

WE WILL, within 14 days from the date of this Order, remove from our files any and all references to the unlawful assignment to more onerous working conditions, the unlawful reassignment and the unlawful denial of a pay raise, and within 3 days thereafter, notify the employees in writing that this has been done and the unlawful assignment to more onerous working conditions, the unlawful reassignment and the unlawful denial of a pay raise will not be used against them in any way.

WE WILL recognize and, on request, bargain with the Union as the exclusive collective-bargaining representative of our employees in the following appropriate unit on terms and conditions of employment and, if an understanding is reached, embody the understanding in a siged agreement:

All Full-Time and Regular Part-Time Employees, including millwrights, millwright helpers, carpenters, carpenter helpers and laborers employed by the employer at its Pensacola, Florida Docks facility, including such employees who work in the field, excluding all office clerical employees, sandblasters, painters, and guards and supervisors as defined in the Act.

WE WILL, on request, bargain with the Union over the effects on unit employees of the closure of the facility, reduce to writing any agreement reached as a result of such bargaining and pay limited backpay to the unit employees.

A.J. MECHANICAL, INC.